



May 30, 2008

Ms. Delores Brown
Chief, Office of Environmental Compliance
Department of Water Resources
P. O. Box 942836 Sacramento, CA 94236
delores@water.ca.gov.

Re: Restore Hetch Hetchy Scoping Comments for Bay-Delta Conservation Plan

Dear: Ms. Brown

Restore Hetch Hetchy supports the effort to create a Bay-Delta Conservation Plan that will both protect estuary-dependent species and help to provide reliable water supply for much of California.

The BDCP, properly planned through the EIR/EIS process, has the potential to do more than protect estuary-dependent species and improve the supply reliability of SWP and CVP export agencies. The BDCP has the potential to improve reliability for Bay Area communities beyond those currently served by the export pumps in the south Delta. The BDCP also can help to facilitate restoration of Hetch Hetchy Valley in Yosemite National Park.

The communities served by the East Bay Municipal Utility District and the San Francisco Public Utilities Commission each rely almost entirely on a single conveyance system to move supplies from the Sierra Nevada to the Bay Area. While some new physical interconnections, along with institutional agreements, have recently been made, these Bay Area communities lack diversity of supply. Should the Mokelumne or Hetch Hetchy aqueducts fail due to earthquake, drought, flood, terrorism or other disaster, the consequences for these major urban centers would be extraordinarily disruptive and could be catastrophic.

Improving the reliability of water supply for EBMUD and SFPUC customers is within the domain of the BDCP, given the broad scope of the Department of Water Resources legal responsibilities for ensuring reliable water for all Californians. Note that both EBMUD and the SFPUC have received Delta supplies in the past during times of need¹. It is likely that relatively little supply would actually be provided through improved Delta facilities to these customers, but it is very important that the capability exist in case that additional supply is needed. These supplies could be provided directly, perhaps through a new connection (and treatment plant) near the juncture of the California Aqueduct and the SFPUC's Coast Range Tunnel. Improved Delta conveyance could also assure availability of Mokelumne and Tuolumne River supplies to

¹ EBMUD is expected soon to have its Freeport project online, but it will only provide limited incremental supply and little in the way of diversity as the conveyance will route supplies through the Mokelumne Aqueduct.

EBMUD and the SFPUC by exchanging Delta supplies with other agencies that also rely on those rivers.

There is little doubt that any changes in the suggested allocation of water in California has the potential to cause legitimate concern among agencies that are responsible for providing water to their own communities. The BDCP must, however, consider the broader welfare of all of Californians.

Similarly, it is likely that any changes within the Delta will cause legitimate concern among those who are dedicated to restoring the wildlife and fisheries that depend on a healthy Delta. Restore Hetch Hetchy supports Delta habitat restoration and project operating criteria that provide ample flows for ecosystem restoration, as well as assurances that the Delta environment will be protected over time.

An additional source of water for the San Francisco Public Utilities Commission, even if seldom used, could also replace the small amount of supply that would be lost if Hetch Hetchy Valley in Yosemite National Park were to be restored². While the BDCP has not heretofore considered restoration of Hetch Hetchy Valley in Yosemite National Park, it is evident from the valley's proximity to the Delta and the actual crisscrossing of conveyance systems, that a Delta solution has the potential to be part of a Hetch Hetchy solution. We believe that analysis of the potential is legally required as part of the BDCP EIR/EIS.

Article 10, Section 2 of the California Constitution specifies that not only must all consumption of water within the State be "reasonable and beneficial", but the method of diversion must also not be unreasonable. The reasonableness of the SFPUC's diversion method must be addressed within the BDCP. Given that the BDCP is intended to guarantee a reliable Bay-Delta water supply system that dwarfs the capacity of the SFPUC system, and that only a small portion of the SFPUC capacity would need replacement were Hetch Hetchy Valley to be restored, it is only "reasonable" that the BDCP fully consider the potential restoration of Hetch Hetchy Valley in its alternative analyses.

The federal Raker Act, which authorized the construction of O'Shaughnessy Dam, states that Tuolumne diversions to San Francisco and its customers must conform to the laws of California.³ Therefore federal aspects of the BDCP analysis must address the reasonableness of

² Analysis by Environmental Defense Fund indicates that, without Hetch Hetchy Reservoir, more than 95% of the SFPUC's delivery reliability would be retained by diverting Tuolumne River flows at Early Intake outside Yosemite and by building a new connection from either Cherry Lake or Don Pedro Reservoir to its conveyance system for diversion of stored supplies. See *Paradise Regained: Solutions for Restoring Yosemite's Hetch Hetchy Valley* (2004) and *Cherry Intertie Alternative* (2005).

³ Raker Act, Sec. 11. That this act is a grant upon certain express conditions specifically set forth herein, and nothing herein contained shall be construed as affecting or intending to affect or in any way to interfere with the laws of the State of California relating to the control, appropriation, use, or distribution of water used in irrigation or for municipal or other uses, or any vested right acquired thereunder, and the Secretary of the Interior, in carrying out the provisions of this act, shall proceed in conformity with the laws of said State.

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the existing diversion, given available alternatives. In addition, the Raker Act (Section 9, paragraph h) limits diversion of Tuolumne supplies to those that are supplemental to other supplies that either were existing at the time of the Act's passage or that the "grantee ... may hereafter acquire".⁴ Delta supplies were not available in 1913 but are available today and many Bay Area agencies depend on them. Given the Raker Act's express limitation on Tuolumne diversions to the Bay Area, compliance with the Raker Act must include consideration of the availability of Delta supplies.

Restoring Hetch Hetchy Valley in Yosemite National Park would provide a spectacular mountain valley for the enjoyment of future generations. It could be managed to accommodate visitors without the degree of development that has diminished the quality of Yosemite Valley, its sister valley 15 miles to the south.

Please incorporate both the potential benefits to these Bay Area communities and the potential restoration of Hetch Hetchy Valley in Yosemite National Park in the BDCP.

Thank you for considering these suggestions. Feel free to contact me if you have any questions at spreck@hetchhetchy.org.

Sincerely,



Spreck Rosekrans
Chair, Board of Directors

⁴ (h) That the said grantee shall not divert beyond the limits of the San Joaquin Valley and more of the waters from the Tuolumne watershed than, together with the waters which it now has or may hereafter acquire, shall be necessary for its beneficial use for domestic and other municipal purposes.